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### Proceedings of the One Hundred Sixth Annual Meeting of the North Dakota State Bar Association

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PROCEEDINGS OF THE ONE HUNDRED SIXTH  
ANNUAL MEETING OF THE NORTH DAKOTA  
STATE BAR ASSOCIATION

OFFICERS

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WILLIAM NEUMANN ..... Executive Director

PROCEEDINGS

June 16, 2005

PRESIDENT SHERRY MILLS-MOORE: Good afternoon! I'd like to call the 106th Annual Meeting of the State Bar Association to order. We're going to begin our meeting with the presentation of the colors.

Bill, would you introduce our commander?

MR. NEUMANN: Our color guard this afternoon consists of Drew Molesworth and Alex Wille and Colby Farber, all of Boy Scout Troop 123. We also have Haley VerDouw from Girl Scout Troop 3125 and Caitlin VerDouw from Girl Scout Troop 3110. And the National Anthem will be sung by Katie Mathern.

PRESIDENT MILLS-MOORE: Thank you very much. I am appointing Judge Ralph Erickson to serve as parliamentarian, and he will keep me and the meeting on track. There's some power!

I would like to take a moment to express appreciation for the people who helped put together the Bar Convention and the Annual Meeting this year. The local committee includes Lawrence King, Chair, Krista Andrews, Judge Gail Hagerty, Courtney Koebele and Eileen Larson, who worked on the children's program, Al Hoberg for organizing the First Annual Judge O'Keefe Tennis Tournament, Mike Halpern, Jim Hill and Paul Sanderson for their work on the golf tournament, Margaret Lee and Diane Peterson for the North Dakota Bar Foundation silent auction, and Julie Buechler-Boschec for the opening night social.

Planning our meeting is a big job. It takes a tremendous amount of time and energy, and we appreciate their willingness to help. So can we give them a round of applause.

PRESIDENT MILLS-MOORE: And now Mike Williams is going to introduce me.

MR. MIKE WILLIAMS: Our next business item is the president's address. And it gives me great pleasure to introduce our president. The one and only, Sherry Mills-Moore.

PRESIDENT MILLS-MOORE: Thank you very much, Mike. Mike is a very kind man. When you look for an emotion that is acceptable in our profession, there is a narrow range of what you're allowed to express. Pain is out. Zeal is in. But gratitude is almost always acceptable. Not wanting to color outside the lines, I am going to talk to you today about gratitude, both mine and the Association's. So let me begin here.

I want to thank you for letting me be the president in this very interesting year. I have been blessed to raise interesting children which means that it has not necessarily been easy but it has never been dull, and I think the same can be said for leading this organization this year. It was not easy but it certainly wasn't boring. If you were measuring stress this year, the Bar Association would have lit at least three or four burners on the stress stove. First, we moved, and now all of you have had an opportunity to see our fine new old house; secondly, we changed leadership, and Christine Hogan left, Bill Neumann arrived. I want to personally thank you, Christine, for your service and dedication to the Bar Association.

Bill Neumann, or as he has labeled himself, no longer Justice Neumann, but just plain Bill, has been on board since March 14, 2005 at 8:00 a.m. But who's counting? In the three months he has been here, he's been very busy. He has been realigning his perspective on the issues of the Bar from the Bar and not the Bench's point of view to the extent there is a difference, and he has been stretching and dusting off skills he hasn't used for awhile. So we are, all of us, grateful to Bill Neumann for coming on board, and to the Court for giving him up.

Then the legislature came to town, and in a few minutes the chair of the legislative committee, Sandi Tabor, will address you about what transpired, including our premier legislation, indigent defense commission legislation. We are very, very grateful to Sandi Tabor for her work on that committee and her work with indigent defense.

We are also grateful for our lobbyist, Joel Gilbertson. But this particular project has an even broader sweep. So I'm going to thank several people here now.

I want to thank Judge Gary Lee, who made the improvement of indigent defense an important part of what he did when he was the president of this Association. I want to thank the Chief Justice, who has been working on an independent indigent defense commission for a very long time.

I want to thank Sharon Martens for chairing the committee, the indigent defense task force, to Christine Hogan, and to our lawyer legislators, Senator Jack Traynor, Connie Triplett, Tom Trenbeath, and Representatives Larry Klemin and Bill Kretschmar.

And I want to thank the legislative committee, who worked overtime, and the Board of Governors and our volunteer lobbyists, Malcolm Brown and Bill Guy. And I want to thank Ted Gladden. And, finally, Representatives Carlisle, DeKrey and Delmore.

While I am being grateful, I would like to thank Ted Gladden for his dedication to the issues of the Court. I'm not sure you're out there, Ted. I'm not sure anyone's out there. But we wish him well in his retirement and we ask him forgiveness for dragging our feet and sometimes cursing under our breath for the changes he pushed through and which have worked out well.

Could we give a round of applause for Ted Gladden?

So what else is new? Well, the Lawyer Assistance Program is new. All of us know lawyers whose practice has slid and ethics followed because of problems with chemical dependency, mental illness or practice management, or some combination of those. They wound up in the discipline system with more weight around their neck and damaged clients. SBAND has committed itself and its resources to doing something about this. And Leslie Oliver will talk to you in a few minutes about this program.

So, again, the gratitude. I want to thank Leslie Oliver and I want to thank Bonnie Storbakken for staffing that and for the committee who put it together and those who raised their hands and said they will carry it forward.

At your direction, we also followed the membership's lead on a reexamination of Professional Rules of Conduct, Rule 7.3. At this point, I'm beginning to feel like a table of contents for the rest of the afternoon, or at least an instrument of foreshadowing, because later today Alice Senechal, who is the chair of the Joint Committee on Attorney Standards, will speak to you about what went on with Rule 7.3.

For the first time in a long time we had a midyear bar exam and 21 of those who took it—of the 21 who took it, 16 passed. So we have 16 new members and we thank Penny Miller and the Board of Law Examiners who took on this additional task to be responsive to a need.

In addition to all these extras, we have participated in the selection and the assessment and the investiture of many new judges and the retirement of, coincidentally, the same number of judges, and including the selection of our new justice, Justice Crothers—soon-to-be Justice Crothers.

The Association has put out Gavels and bar blasts and held a large number of successful CLEs and continued to try to fulfill the needs of our indigent civil clients through the volunteer lawyer program.

Sadly, not all of what happened this year was good news, and any member who passes away depletes our resources. We are particularly saddened to lose Justice-Professor-Author-Trial Lawyer Bob Vogel, and our beloved Professor Randy Lee.

What has been made abundantly clear to me this year is something that I have always suspected but now I know is a certainty, and that is how hard, how very hard all of our members work. They get up every day and tackle thorny issues that are problems of very real people coded in rancor and glistening in danger and anger as they deal with office management and families and coworkers and communities and staff and finances. And they contribute their time and their knowledge and their resources to their clients, be they big or small, and also to their communities and, yes, to our Association.

One of my favorite authors, Marge Piercy, has captured the value of this better than I could. So if you'll bear with me, I'm going to read a little bit of what she says about having a useful life.

"The people I love the best jump into work head first without dallying in the shadows, and swim off with sure strokes almost out of sight. I want to be with people who submerge in the tasks, who go into the fields to harvest and work in a row and pass the bags along, who are not parlor generals and field deserters, but move in a common rhythm when the food must come in or the fire must be put out."

"The work of the world is common as mud. Botched, it smears the hands and crumbles to dust. But the thing worth doing well has a shape that satisfies, clean and evident. Greek amphoras for wine or oil and Hopi vases that hold corn are put in museums. The picture cries for water to carry and a person for work that is real."

Our Association is filled with people for work that is real. And to all of them I am grateful, as is our Association. The work of the Association must always be real and our task is to go forward as an Association and make it possible for our members' work to be real. We cannot participate in the promulgation of measures and rules and costs and procedures if they

provide little measure of aid but rather create significant impediment to the accomplishment of our real work—the representation of our clients.

We must be here as the first layer of defense for those who would place our true task as attorneys behind their perceptions of our calling as something far darker. So let me just go a little further before I stop, and I will stop soon.

I want to thank the members of the Board of Governors for stepping in and taking up the task of bringing in the food and putting out the fire. They are, each and every one of them, to be commended. And then there is the staff. The Association has a wonderful staff. When we were without an executive director, they simply worked and worked and worked, doing their work and a whole lot more, and they put in many, many hours in what must have been an unsettling time. So Jeanne Schlittenhard, Carrie Molander—formerly known as Carrie Torgerson, Justine Rowinski, formerly known as Justine Schneider—we’ve had two weddings this year—and McDonna Fryer, I thank you, and I thank you, and I thank you.

And, finally, not to sound like Miss America or an Academy Award winner, but I want to express gratitude to my husband, Tim Moore, who has been with me, as he always is, in this most interesting year.

One of my clients ends all her e-mails to me with this, and I’m sure that many of you have heard it, but I think it characterizes this past year for me. She says: “Life’s journey is not to arrive at the grave safely in a well-preserved body, but rather to skid in sideways, totally worn out, shouting, ‘Holy cow! What a ride!’” So holy cow! What a ride! Thank you very much.

And now I would like to introduce to you someone who does need no introduction, Chief Justice VandeWalle, who will give us the State of the Judiciary.

**CHIEF JUSTICE VANDEWALLE:** Thank you.

Thank you, Madam President. I appreciate the opportunity to report to the gathered membership of the North Dakota State Bar Association on the state of the North Dakota judiciary.

As I’ve stated in past presentations, change is ever present and it seems almost all-consuming. In a quotation by E.B. White, he said, “The only sense that is common in the long run, is the sense of change—and we all instinctively avoid it.” Fortunately, or unfortunately for those who resist change, and most of us do at one time or another, there is a great deal of truth in this quotation. My remarks today are about changes in the last year.

As you’ve already heard, a milestone was reached with the passage of Senate Bill 2027. The bill provides for the creation of an indigent defense commission. For a number of years, I have been very concerned about the

organization of indigent defense services, believing that the services should be administered by an independent body and removed from judicial oversight. As you may recall, there was an interim legislative study approved following the 2001 legislative session.

Legislation was introduced in 2003, but that bill failed. During the interim leading up to the 2005 session, another interim legislative committee was given the task of assessing our indigent defense system services a second time.

This committee, under the leadership of Representative Lois Delmore of Grand Forks, worked in collaboration with a State Bar Association task force to review the indigent current delivery system and provide recommendations to the interim committee for change.

And although Sherry's already mentioned it, I must take a moment to recognize and thank the lawyer members of the task force: Sharon Wilson Martens, Birch Burdick, Dennis Fisher, District Judge Laurie Fontaine, Jim Ganje, District Judge John Greenwood, Marv Hager, Rebecca Heigaard McGurran, Representative Lawrence Klemin, District Judge Debbie Kleven, Representative William Kretschmar, Lawrence Kropp, Kent Morrow, Steven Mottinger, Chad Nodland, David Peterson, Bruce Quick, District Judge Allan Schmalenberger, Sandi Tabor, Robert Thomas, Senator Jack Traynor, Senator Thomas Trenbeath, Senator Constance Triplett, and Chris Hogan, Staff.

The task force, which was funded in part by the Association, the Supreme Court and the Legislative Assembly, developed a legislative proposal for submission to the interim legislative committee. That proposal is now law. The new system calls for an increase—an increase—of over five million dollars in funding for the creation of the commission and a 48 percent increase in funds available for contract services. Once the legislative session began, there were many people involved in moving the initiative forward. Joel Gilbertson, Sherry Mills Moore, Sandi Tabor, and Jack McDonald played key roles in lobbying for the successful passage of this legislation.

And I would be remiss if I did not recognize the support of the chairs of the House and Senate judiciary committees, Representative Duane DeKrey and Senator Jack Traynor, for their guidance of this bill through the committee process. Representative Ron Carlisle of the House Appropriations Committee was also a member of the task force and played a key role to work with the judiciary for the funding strategy of the commission itself.

This legislation represents a milestone in criminal justice services in our state. The Legislative Assembly has provided greater funding to assist the new system in addressing the shortcomings of our present system.

Funds have been included in the commission's budget for a director and support staff. Passage of Senate Bill 2027 is as significant as many of the earlier pieces of legislation that resulted in the unification of the courts of North Dakota.

To each of you who visited with individual legislators in support of this legislation, thank you. The Legislature may not have been eager to spend scarce resources on this issue, but they saw the need, recognized their obligation, and did what needed to be done. Please thank your legislators. This is the type of legislation that could not have passed without the commitment and the involvement of many people.

As I reported last year, a statutory committee is in place to provide funds to counties for courthouse renovation and maintenance projects. In the first cycle of grants, \$536,647 in grants was awarded to counties. For the first biennium of its operation, it is anticipated that the committee will have approximately \$920,000 available for grants. The program provides funding for specific court-related projects that will improve the physical plant in our 53 counties. Grant funds are derived from a mandatory assessment in criminal cases. The granting process represents a commitment to the maintenance and upkeep of the county courthouses. I hope you will notice the changes being made in the various county courthouses of the state. Changes range from remodeling initiatives to new carpet, paint, and improved sound systems in the courtrooms.

This initiative underscores a recognition that court facilities in all the counties should be maintained to a high standard for the citizens of our state. We have moved forward with the installation of digital audio recording systems in our courthouses. The systems are being installed to replace the analog recording systems that we have used for many years.

By June 30, we will have extended digital audio systems in Barnes, Ramsey, Richland, Stutsman, and Walsh Counties. Systems were installed earlier in Cass, Grand Forks, and Stark Counties. We will continue to assess the technology and expand into the more rural jurisdictions of our state as we can justify it.

As you know, we have recently adopted and already amended Administrative Rule 52, which provides a general framework for the use of interactive television throughout the state for selected court proceedings. It will permit, among our things, the acceptance of a guilty plea and sentencing of a defendant with the consent of the parties. Use of this technology is being requested by lawyers, judges, and general citizenry to facilitate judicial proceedings. By the end of June, we will have expanded interactive television in Grand Forks, Ramsey, Stark and Ward Counties.



We are also installing a second system in Cass County due to the volume of ITV hearings being held in that county.

As each day goes by, we learn of a new applications for this technology. We now have interactive television in a conference room at the Supreme Court and have begun using it for staff meetings of the State Court Administrator's Office as well as other committee meetings. We are already realizing a savings in travel costs for our personnel. I am confident that as the technology becomes more commonplace, we will find more uses for interactive television in support of the Court's business.

We are just now moving forward with a pilot project in Mercer and Burleigh counties on an enhanced records management system. This system will provide for imaging of court records and ultimately electronic case filing in the trial courts. This system will be tied to our electronic case management system. The concept is based on the elimination of a paper file in one location. Using an electronic record, judges and court personnel will have access to the court's records from remote locations. Once the pilot project has successfully concluded, we will consider implementing enhanced records management services in the other 51 counties of the state at a rate of approximately two counties per month. This is a substantial undertaking for our technology staff and will create a learning curve for our clerk personnel. However, once implemented, it will reduce our records storage needs and increase access to court records dramatically.

We are into our tenth month of the new administrative organization that provides a new system for the judicial branch. We have professionally trained administrators in Administrative Unit 1, which is the Northeast and Northeast Central Judicial Districts, Administrative Unit 3, which is the South Central and Southwest Judicial Districts, and Administrative Unit 4, which is the Northwest Judicial District. We are actively recruiting to fill the position in Administrative Unit 2, which is the East Central and Southeast Judicial Districts. I am heartened by the reports I have received regarding this initiative. My directive to our State Court Administrator was that reorganization should occur with minimal disruption to the judges and lawyers of the state. Based on the work plans that have been created in the administrative units, this administrative reorganization is being carried out in that spirit. We are striving for greater consistency in administrative processes and removing day-to-day administrative tasks from the judges' shoulders. None of our activities has in any way impeded or changed the delivery of judicial services, which was one of our objectives. Rather, we are gaining efficiencies as we reassess our personnel needs and simplify our operating procedures.

This session brought about a number of pieces of legislation to address accountability within government. These initiatives are directed towards achieving greater accountability on the part of all units of government. I am happy to report that we are in a position to embrace and respond to any questions concerning the judicial branch, while always recognizing we are a separate branch of government. Our weighted caseload study for judges and weighted workload plans for clerk of court and juvenile court position us well for assessing personnel needs. Our docket currency standards provide the basis for routinely monitoring the workloads of the courts. We are positioned to identify administrative needs as they arise and respond expeditiously, timely, and effectively to those needs. We have effective tools in place to monitor our branches' operational needs and communicate this information to the Legislative Assembly and the executive branch.

On the point of the role and use of docket currency standards, I stress that cases are monitored from the point of filing in district court. At times, this may cause angst for some parties and for their attorneys, but it is the court's responsibility to assure timely resolution of all cases. The phrase "justice delayed is justice denied" underscores the need for aggressive case management procedures.

In the January State of the Judiciary message to the 2005 Legislature, I noted my concern with the attack on the Code of Judicial Conduct which governs the actions of judges and judicial candidates, particularly as applied to elections. I told the legislators I had a concern but no proposals, not even a study resolution. A study resolution, House Bill 3014, to study judicial elections and recent court decisions affecting conduct of judicial elections was introduced, not at my request, although I did not oppose it. It was accepted for study by the Legislative Council and assigned to the Judicial Process Interim Committee.

As of this writing, I do not know the members of the committee. While I would prefer elections as we have known them in the past, that is most likely wishful thinking. They will, like the other areas I have touched upon today, change also. But we should strive to find a system that keeps judges as free from bias, actual or perceived, as can be maintained in light of the developing case law. I urge the Bar Association to take part in the discussion before the Judicial Process Committee on this significant issue.

Since we last met, we have had five retirements. Their replacements have been filled by election this last November. The electors chose Steve Marquart and Steven McCullough to succeed Judge Larry Leclerc and Judge Michael McGuire; Sonya Clapp to succeed Judge Bruce Bohlman; and Gary Lee to succeed Judge Gary Holum. I recognize the years of dedicated service by the retiring judges and welcome the new judges to our

judiciary. William Neumann served our state very ably as a district judge for 12 years and then on the Supreme Court for over 12 years. We miss him on the bench, but we are pleased he will continue working for the profession and our citizens in his position as your Executive Director. I know he will enjoy the challenges of his new career.

Ted Gladden, State Court Administrator, has announced his retirement. I regret that decision, but I must respect it. Ted has given many years of service to the North Dakota Judiciary in several positions, including State Court Administrator. I owe Ted a big thank you, as does the entire judiciary, for a job very well done.

Today, I have touched on a number of initiatives and activities that are underway in our judicial system and which reflect on our continued commitment to providing a high level of judicial service for all citizens of our state. In the midst of these changes, I ask you to reflect on the values of our system of government and the critical role the judiciary plays in the lives of every citizen. As we look at the efforts being made throughout the world to establish democratic forms of government, we must be mindful and thankful for our Constitution. It provides the framework within which we can continue to make changes to improve the administration of justice. I am also mindful of the relationship between the bar and the bench in North Dakota. While we may, on occasion, disagree on a particular matter, together we have accomplished many beneficial initiatives for the profession and, most importantly, for the citizens of our state.

Thank you for your support this year, and particularly this past legislative session. I look forward to continuing our positive working relationship in the future. Thank you.

**PRESIDENT MILLS-MOORE:** Thank you, Chief.

Community service comes in many forms. The Association is very proud of the efforts of the Volunteer Lawyer Program in meeting the needs of individuals who could not otherwise find legal representation. Today the chair of the Volunteer Lawyer Program, LaRoy Baird, is going to come up and pass out the awards to those who have donated an extraordinary amount of time. LaRoy, would you come up while I read their names?

This year we have three people who have donated 95 hours or more, and I'm going to help you translate how much time this means in the real world. With us today are Cynthia Schaar, who donated 300 hours. If she worked a 40-hour billable week, that would be seven weeks of her time. Robert Keogh, who is here every year receiving this award, put in 110 volunteer lawyer hours, which is just about three weeks of his time. And Kent Morrow, who is another repeat offender, has 95 hours, which is about

two and a half weeks of his time. If you would come forward, we have a very small gift of appreciation for you.

I believe they are receiving chairs to sit in and relax while they do their volunteer lawyer hours. Thank you very much.

Also as a part of that, I want to extend your thanks and ours to Carrie Molander and McDonna Fryer, who are the staff people who keep the Volunteer Lawyer Program running. Remember the name McDonna Fryer, because when she calls, you should answer. Can we give them a round of applause.

Thank you. And thank you, LaRoy.

At this time, you're going to hear about the state of the finances of the State Bar Association. The treasurer, Tim Hill, is not able to be here today, so David Peterson from the Board has kindly agreed to give that report to you. Dave, can you come on up?

MR. DAVID PETERSON (Grafton): In your packet starting on the pages following the agenda is the Financial Report. Before I get to that, however, I would like to publicly acknowledge that this report is primarily for 2004, and Christine Hogan is the brains behind this budget. And, Christine, I'd like to thank you on my personal behalf and on behalf of the board for your hard work in the finance area of our organization.

I think this will depend on questions from you, most of all. I think I will try to highlight a couple items. But essentially your report starts there with the audit. We have a very nice, clean audit, which is great; and, in fact, our board personally hears from the auditors two or three times each year when they visit our meeting and we ask them questions. The reports actually are getting somewhat understandable, which is a huge improvement. But we have an unqualified report. There was a suggestion on there as to division of duties with respect to balancing the checkbook, and so forth. So with our staff, we're working on that.

As far as income, 2004 was very similar to 2003, and the bottom line for 2004 was very similar to 2003. But you will notice, if you'd like to dig more closely, that our budget for 2005 has increased significantly; and, of course, the thanks for that is to you. Starting in 2005, you are pained to know that you are paying fifty dollars per lawyer more than you were before. But I can assure you that not all those fifty dollars finds it into our bank account. Some of it finds it into the people that investigate and discipline you. So that's the way the system works. We are policing of our own body members.

So that is reflected in the budget for 2005. It's enabled us to do more things, have a more complete staff, publish more Gavels, do more with our web site, spend money promoting indigent defense, et cetera.

If any of you have specific questions about that, I would do my best to entertain them, but I may plead lack of knowledge on some. But does anybody have any questions that we might be able to answer in this forum here today? Okay.

Hearing none, I did want to make one mention of things that you hear around a dessert bar or so forth, the C.B. Little house. I personally think this was a tremendous, tremendous thing for your organization, to allow the staff and headquarters to move to the C.B. Little house. And there, again, Christine was a major player in that. If it had not been for her zeal in pursuing that, it probably would not have happened. But between the Board and Christine, and particularly the diocese, it was a win-win situation for all of us.

Our rent expense each year is virtually unchanged from previously, and anyone who was there on Wednesday night sees the difference where we operate from. Our utilities are a little higher, and we'll know the full extent of that as we go through a winter and summer season with the air-conditioning and heating; but, boy! I think it has been well worth it, and I hope you agree.

Other than that, I do not think there's anything significant that I could pick out trying to anticipate questions. So if there are none, I thank you.

**PRESIDENT MILLS-MOORE:** Thank you very much. It's encouraging to have a former bank examiner provide that kind of report.

It is my pleasure at this time to introduce Leslie Bakken Oliver, who is going to speak to you very briefly about the Lawyer Assistance Program. Can you come on up again, Leslie, now that you know the way. Thank you. Let's give Leslie a round of applause.

**MS. LESLIE BAKKEN-OLIVER:** Thank you.

Sherry asked me to just give you a little overview of the Lawyer Assistance Program, and I'm going to start by admitting that the program committee has been identified, the members have all accepted their positions, but we have not yet met. It has taken us almost a year between the steering committee determining what our program should look like and getting the approval of the Board of Governors and getting the members appointed and accepting their appointments to get to this point today. And we have a committee made up of six individuals, three appointees from the Board of Governors and three appointees from the Chief Justice, who are, I'm proud to say, Maureen Holman, Dave Bossert, two attorneys from the east, and Dr. Olafson, from Fargo, and from the west, Mark Larson, an attorney from Minot, myself, and Tom Ribb, who is a CPA from Dickinson. I served with Tom on the Inquiry Committee West and am delighted that he has agreed to participate.

So what is the Lawyer Assistance Program? It was born on August 1st, 2004, pursuant to North Dakota Supreme Court Administrative Rule 49. The steering committee charged with putting together the program met for the first time in October—late September-October of last year, and as chair after the first meeting it was clear to me that we had lots of enthusiasm but not a clue where to start.

Bonnie Storbakken and Krista Andrews, two attorney members of the committee, agreed to attend the annual ABA COLAP, or lawyer assistance program run by the ABA. That was in Philadelphia. And we hoped as a committee that they would return with a how-to manual on starting our program. They came back with lots of information about substance abuse testing, adulterants and the latest technology in surveillance, but nothing that we could use. So we got back to square one and realized that we were going to have to build the program from the ground up.

We went back to Rule 49 and the companion Rules of Professional Conduct, et cetera, and built the program based on the diversion process that is called for in the Rules of Professional Conduct. We created the parameters of what I call Phase I, which is the diversion program, and outlined the wishful thinking of Phase II, which is what I hope in the future is an information referral and education program as part of the Lawyer Assistance Committee program.

So where are we today? Well, we have oversight by six members of the committee. We will serve three-year terms, no more than two, and we have identified the members. Phase I is primarily diversion and the referrals are made by—in two forms. First, referrals are received from or through the disciplinary process from the district inquiry committees, the Disciplinary Board, or from the Supreme Court directly. A lawyer involved in the disciplinary process can self-refer, as well, which is encouraging. Additionally, referrals can come through the bar application process from the State Board of Bar Examiners, applicants that are applying for the first time or people who are reapplying after a suspension.

The committee chair takes the referrals—receives the referrals and assigns each referral to one or more committee members to do an intake and written evaluation to determine whether participation in the Lawyer Assistance Program will benefit the lawyer.

So what does that mean? And to be honest, I'm not sure yet. But I'll tell you what I think it means today. We're charged with looking for those cases that can—and I'm quoting the rule—"reasonably be expected to treat, educate or alter behavior and/or address the underlying problem." Bottom line for me: we're looking for those individuals with emotional and mental disorders, substance abuse issues, that are, at their very least, isolating, and

at their worst, crippling. And there are those of us today who are suffering in silence, and those are the individuals we hope to serve.

Violations that relate to practice administration and organization, health or competence, that deal with emotional and mental disorders, substance abuse issues and that kind of thing, will probably be appropriate for the Lawyer Assistance Program. Violations that involve moral fitness, integrity issues, self-dealing, dishonest conduct, breach of fiduciary duties, and we'll also look at the harm that's resulted. But great harm, significant aggravating circumstances, may not be situations that are appropriate for the Lawyer Assistance Program. But you know what? We won't know until we get in and take a look.

The committee, once the intake is done, accepts or rejects the individual for participation in that. If the individual is rejected, the referral is returned to the referring entity for further processing, I assume through the discipline whatever discipline stage they're in. If a person is accepted, and that is certainly the goal, the committee assigns the lawyer either a specific professional provider to work with, an appropriate professional provider, or an entity; for example, a treatment center, and assigns them the responsibility of going to the treatment center and working with someone there to identify the problem and the solution and come up with a plan, which the rules call an individualized assistance plan.

If a lawyer has substance abuse issues, one might expect a substance abuse evaluation, treatment, aftercare and any follow-through that's recommended.

The plan participant, the lawyer, has got to agree to submit to the process and buy into the plan. The plan has to be submitted to the committee for approval and to the referring entity for approval if in fact going through the program is a requirement of diversion from discipline.

Once the plan is accepted and the lawyer starts through the process, ongoing plan compliance is monitored by the committee. If the individual plan is successfully completed, the Lawyer Assistance Committee issues a final report of compliance to the reporting entity and, God willing, the file will be closed and the lawyer will live a long and happy life with a good practice. If the plan is not completed, if there's a problem, at some point compliance is ascertained, and if there's a determination that noncompliance is the case, then the file will be returned to the referring entity for further processing and, I assume, further discipline.

The costs of participation in the program are borne by the lawyer participating as his responsibility/accountability for the success of their individual plan.

It is my hope that this program will give the lawyers that choose to participate a safe haven, a time-out from practice issues, and the ability to become accountable and responsible for their own problems because their success is in their hands, really. And I also hope that some of the stigma and the shame that's associated with emotional and mental disorders and substance abuse can be resolved and certainly lessened, reduced, by participation in this program.

Phase II—and I'm way over the five-minute time limit that I was given—and this is in the future: the steering committee recommended an information referral and outreach program as the second part of this process. Confidential information and referral service is available not only to lawyers but to lawyers' families and loved ones, partners, for chemical dependency and other compulsive behavior issues, emotional disorders, practice management issues, et cetera. Part of that might be a hot line, peer counseling and education.

I want to thank all of the steering committee members for their assistance, and a thank you in advance to all the Lawyer Assistance Committee members that have accepted this charge, and a special thanks to Bonnie Storbakken, Krista Andrews and Christine Hogan, who really got this program off the ground. Thank you.

**PRESIDENT MILLS-MOORE:** Thank you very much, Leslie.

Next, we're going to hear from Alice Senechal, who is going to tell you what has become of Rule 7.3 of the Rules of Professional Conduct.

Alice.

**MS. ALICE SENECHAL:** Thank you, Sherry.

When Sherry asked me to do this, she didn't tell me that I'd get to be a TV star. And thank you for not telling me that, Sherry.

Before I talk about Rule 7.3, I think I need to recognize that perhaps not everyone knows each of the Rules of Professional Conduct by rule number. Rule 7.3 regulates in-person solicitation of prospective clients, and since March 1 of 2004, the North Dakota rule has been pretty much consistent with that of most other states and with the ABA's model rule on that subject. It regulates in-person solicitation of prospective clients with exceptions for persons with whom the lawyer has a prior professional relationship, a family relationship, or a personal relationship.

North Dakota's rule is a bit more broad than that of the model rule and most other states. The model rule refers to "close personal relationship" as an exemption, and the North Dakota rule just refers to "personal relationship." So it doesn't have to be as close.

Sherry mentioned, I think, that last year at this meeting the membership passed a resolution asking the Joint Committee to set the rule on for



comment and hearing on issues related to the dissent that had been written when the rule was adopted, and I'm going to talk with you about how the committee has addressed that. But before I do that, I want to try to capsule the approximately five years of history of the rule that preceded that.

In the late 1990s, I think '98 or 1999, the Joint Committee on Attorney Standards began looking at all of the rules governing advertising and solicitation. We affectionately referred to that as the Rule 7 series. And after some work by the Joint Committee, there was a recommendation made to the State Supreme Court in December of 2000. That recommendation was for significant changes in the advertising and solicitation rules. The work was based on an ABA white paper which was the predecessor to the Ethics 2000 report from the ABA. The Supreme Court set that for hearing. The hearing was held in the spring of 2001. The advertising/solicitation rules were still under consideration at the Supreme Court at the time the ABA adopted the model rules in early 2002. So the State Supreme Court asked the Joint Committee to again look at those rules in light of what the ABA had adopted as the model rules, and the Joint Committee did that.

In November of 2002, the Joint Committee again forwarded those proposed changes in the advertising and solicitation rules to the Board of Governors, and in June of 2003 forwarded those recommendations again to the State Supreme Court. The Court adopted the Joint Committee's recommendations with some modifications, but the rules went into effect March 1 of 2004. And Rule 7.3 was adopted on a 3-2 vote with a written dissent.

Then last year at this meeting there was the resolution asking that the Joint Committee again take a look at that. We chose to do that through soliciting written comments. In February of this year there was an e-mail to all members of the Association inviting comments, and the deadline for comment was March 30—excuse me—March 20.

We received three written comments. One comment was in favor of the rule as it had been changed; two opposed it. In April, after receiving those comments, the Joint Committee decided that, given the number of comments, we would not recommend any change or any additional action at this time. We forwarded that information to the Board of Governors, and I understand that at its April meeting the Board of Governors decided to take no additional action at this time. So I think it is accurate to say that for the first time in about six years, there is nothing relating to Rule 7.3 on the agenda of the Joint Committee on Attorney Standards.

So, having talked about the path of Rule 7.3, and since Sherry allowed me to be a TV star for a few minutes, I'm going to talk just about a couple of other things about the work of the Joint Committee.

Sherry has an exquisite sense of timing and talked me into chairing the committee, oh, late January, early February, just a few days before Professor Lee became very ill and it became apparent that his work on the committee was not going to continue and, of course, he died about a month later. His absence really has changed the work of the committee and the meetings of the committee, and we need to just acknowledge that he was the backbone of the Joint Committee on Attorney Standards and its predecessor throughout its history.

But we have continued our work. The Joint Committee has done a whole lot of work, and a couple of days ago completed our review on the other rules in light of the ABA's changes. We're going to be presenting our recommendations for changes to the Board of Governors in July, and we hope to present our recommendations to the Supreme Court this fall. So be looking for an opportunity to review and react to the changes as the Joint Committee recommends there.

The Joint Committee has 14 members. Ten are attorneys. Four are non-attorneys. I want to mention the four non-attorneys not because any of them are here. I know that none of them are here. I mention it because I think we need to recognize that the work of non-attorneys is really extraordinary. It's one thing for those of us within the profession to put our time into these kinds of projects. It's another for those who are from another profession. So I mention their names.

I urge you, if you know any of them, to say thank you, we appreciate your work. Dianna Kindseth and Clare Carlson from here in Bismarck, Ryan Pitts and Elaine Fremling from Fargo. They help our work tremendously. And, finally, I want to acknowledge the work of one other person who has really made our review of the model rules go so much more smoothly, and he is here. Jim Ganje has been a part of the staffing of the committee and really kept our work very well organized and on track. And thank you, Jim, for the exemplary work that you do there. Thank you.

PRESIDENT MILLS-MOORE: Thank you very much, Alice.

I believe that—I know we're now going to hear from Sandi Tabor, and given how much time everybody else has taken and stolen her thunder, it will be a very short speech, to the extent anyone—especially me—can control Sandi.

So, Sandi, if you would come up and speak about what's gone on with the Legislative Committee and Indigent Defense. Thank you.

MS. SANDI TABOR: Thank you, Sherry. And good afternoon!

Sherry's absolutely right. Almost everything I had to say has now been said. So let me just tell you a couple things about this last legislative session that I think are quite remarkable.

Indigent defense received over four million dollars of new general fund money. That, in and of itself, should give you an idea of the type of effort that was put together during this session to get it done. The Chief and Sherry have thanked everybody that was involved in it, and I echo those thanks. I've been doing this for a long time, since 1983, when I carried John Dwyer's briefcase to my very first session. And there have been few instances when I have seen all of the stars and planets in the universe align in such a fashion so that we could put together this type of an effort and actually accomplish something that's going to benefit many people in this state. It is, in fact, almost awe-striking about how well it worked. There were times, however, that we weren't so sure that it was going to work. And I direct your attention to the last three weeks of the session when the majority leader of the House held both the Supreme Court appropriation bill and Senate Bill 2027, and it was during that time that the true ability of the Association and the Supreme Court to influence the process really shined. And to that I give credit to many of the people on our Legislative Committee.

You know, not many of you know about how the Legislative Committee works or who's even on it; but I will tell you that we are fortunate because on that Legislative Committee we have some of the most influential lobbyists in the state. John Olson, Joel Gilbertson, Jack McDonald. I don't want to miss anybody, so I won't pretend to try and name them all. But it is a group that has influence, and they, as always, when we ask our members to help, stepped up to the plate, calls were made, discussions were had. That in and of itself was important. But as important was the work—and I'm going to echo this, even though their names have been mentioned—of Ron Carlisle and Ray Holmberg, who nobody's really mentioned yet, and part of it is because there was a little problem at the beginning of the session with Senator Holmberg. But let me tell you something. At the end he came through, as did the majority leader of the Senate, Bob Stenehjem.

So with that, let me tell you briefly where we're at with indigent defense. And I'm a little out of the loop now since we're now in the stage of appointments and, of course, I really have nothing to do with that. But I always keep my nose in everything, as you all well know.

So this is what I can tell you: The State Bar, I believe, has someone in line to serve on the Commission on their behalf. I believe that Justice VandeWalle has a couple of people in mind to serve on the Commission on the Court's behalf. Now, remember that the Commission has five members. The governor has the individual appointments, and I'm fairly certain

that Duane Houdek and the governor are working on their two appointments.

A crucial or a key component to the Commission's make-up and part of the reason that we were able to sell it was that included in the Commission make-up was a limitation or a qualification as to who could serve, and in that both the Supreme Court and the governor, one out of their two appointees had to represent a county of less than ten thousand people. Now that in some ways makes it a little difficult to find people, especially when you look at the other criteria, which is that they have to have criminal defense background or at least a known commitment to the criminal indigent defense process. So they—while it is a challenge to do this, I think that what we are going to end up with is a Commission that is highly qualified to start moving this whole process forward. And they have a lot to do in six months.

The money that was included, and when the dust all settled at the end of the session, all of the money for indigent defense was included in the Supreme Court budget. That money will be moved to the Commission in January. That isn't a lot of time to hire an executive director, bring on an assistant director, find staff, and also to set up all of the standards that the Commission must use in order to operate the program. I think that there will be a big challenge for those who serve on this Commission. However, based on what I know about who might potentially be on the Commission, I think that they are well suited to take on the task.

The only reporting requirement at this time—and I think this is another thing that I marvel at a little bit—is that this Commission during this next interim will report to the Legislative Council but they are not reporting to any other agency or entity, and the significance of that is that there were several people, including the House majority leader, who wanted this Commission to be a part of a separate entity—agency or entity. Those desires were kept at bay, and we succeeded in simply having a reporting requirement to the Council; and, again, I think that is something that is a tribute to the people who helped work on this bill that we got, that it didn't get carried away.

With that, Madam President, I am going to conclude my remarks. And, again, I just wish to express my considerable appreciation for all of the members of the Legislative Committee. The good news is that all of us have to read all of those bills, anyway. But—so it's not like we're doing anything extra in that effort, but they do a lot of work in attending committee hearings and testifying on behalf of the Bar, and we should all give them a great deal of thanks. Thank you.

PRESIDENT MILLS-MOORE: Thank you, Sandi. Thank you very much for all your hard work on that.

Speaking of hard-working, influential legislative lobbyists, here comes one now. Jack McDonald is now going to present the Bar Foundation report. Lisa Wheeler is the outgoing chair of the Bar Foundation and Jack has just been elected incoming, so he's going to report on everything he's learned about what's gone on in the last 24 hours and what went on before. So, Jack McDonald, would you come up, please?

MR. JACK McDONALD: Thank you very much, Sherry.

I want to thank all the little people that are involved in my election, and I will not name them all, but I do want to thank them all very much.

When Sherry asked me to do this, she said "keep it short" and I thought about the haircut, and went out and did this. The report is in your book, guys, and I'm not going to try to bother you with reading it. Those of you who've followed this thing for the last few years know that the IOLTA account has had some problems because of low interest rates, and apparently the law firms are not putting money in the banks like they used to, so the IOLTA accounts are down a little bit. But you can read the money totals that are the report.

We gave out \$54,000 worth of IOLTA grants—or excuse me—the money generated. We generated \$54,000 in IOLTA funds in 2004, and we went ahead and gave out \$80,000 worth of grants. That would be a budget deficit of \$26,000. But we've got a reserve fund, and we said, "Oh, what the hell. What are reserve funds for?" (Laughter.) So, you know, if we don't use them now, we're never going to. So we used \$26,000 of them. So you can be proud of the committee for that.

I want to thank the current IOLTA committee. They are a hard-working committee. Marilyn Foss has been on the committee for years and years and years and is cycling off now. She was the chairman. Jane Traynor is on the committee. Ilene Larson and Gordy Schnell were also members of the IOLTA committee.

The other part of Bar Foundation is to give grants and donations to help public education and to help lawyer education. We give three scholarships to the North Dakota University School of Law. We give a scholarship to the person who writes the best Law Review article and, most importantly, I think in the last few years they have endowed a chair—partially endowed a chair at the University of North Dakota. Randy Lee held that chair. The Bar Foundation at its meeting on Tuesday voted to continue that and to name the chair permanently for Randy Lee. So we're going to be continuing that with the help of the Law School and Dean LeBel, and we will

have the Randy Lee Chair that's going to be endowed by the Bar Foundation at the University of North Dakota.

I do also want to urge you all to come to the reception that starts at 6:30 tonight and the silent auction. And as Sherry said earlier, the auction is to raise money for the Foundation, so we do hope that you bid often and bid high.

We want to thank—as the sheet said in the report, we want to thank the Bismarck law firms who generously are going to host the reception. They are the Wheeler Wolf law firm and two other law firms (laughter). No. They—it's Zuger, Kirmis & Smith and the Fleck Mather law firm and the Wheeler Wolf law firm. So come on and help out with the Foundation tonight. Thank you very much.

PRESIDENT MILLS-MOORE: Thank you very much, Jack.

At this time it is time for resolutions. And our first resolution is from David Peterson. Dave, would you please come up? David.

MR. DAVID PETERSON (Grafton): This is not actually a resolution but a time in the agenda where I was graciously given time to reiterate, again, our First Annual James H. O'Keefe Memorial Tennis Tournament. As those of you that knew Judge O'Keefe well, he was an avid tennis player. He died, unfortunately, in January of 2003. And just recently, his good tennis buddy, Judge Medd, called Bill Neumann, and the ball started—or the tennis ball started rolling, and Bill, of course, knew that Judge O'Keefe was from Grafton and also his good friend and former employee colleague was Lisa McEvers. So we embarked on an effort to raise money to set aside so that we could continually run the tennis tournament each year. So that was done this summer and, as indicated, Al Hoberg chaired the actual tournament.

But I wanted to publicly thank him, thank Lisa, and also on your tables were a list of the contributors. There was one late one that did not make my list, Paul Dickson. And also I have a misnomer there. Doug Mattson should have been a little higher up on the list, where it says "Honorable." So thank you, Judge Mattson, for your contribution, as well.

So we were able to raise \$1,965 in great part due to the generosity of Beatrice O'Keefe, my good friend, and Jim's widow. So thank you for that. We will continue that. This plaque will be inscribed with the names of the singles and doubles winners. Darrin Schultz won the singles this summer and Joel Medd and Bob Freed were the doubles winners. We will have their names on here and the year. This will be at the C.B. Little house to perpetuate Jim's memory. Thank you for that.

PRESIDENT MILLS-MOORE: Thank you. Now I would call on Mike Williams to read the resolution of thanks.

MR. MIKE WILLIAMS: First, we have our resolution of appreciation.

WHEREAS, members of the South Central Judicial District and others have put considerable time and effort into planning and organizing the 2005 Annual Meeting of the State Bar Association of North Dakota, and

WHEREAS, those people deserve special thanks for their efforts,

NOW THEREFORE, BE IT RESOLVED, that the State Bar Association of North Dakota extends a special thank you to those persons involved in the planning and organization of this Annual Meeting, particularly, Lawrence King, Chair, for planning and overall coordination of a multitude of details, Krista Andrews, Al Hoberg, Judge Gail Hagerty, Mike Halpern, Jim Hill, Courtney Koebele, Ilene Larson, Paul Sanderson, and Julie Buechler-Boschee.

Also to Margaret Lee, Diane Peterson, and to the attorneys and law firms for sponsorships and donations to the North Dakota Bar Foundation silent auction; and to the law firms of Zuger Kirmis & Smith—Jack, how do you say it—”Whee” —

MR. JACK McDONALD: Wheeler.

MR. WILLIAMS: Wheeler Wolf.

MR. McDONALD: Yeah.

MR. WILLIAMS: Okay. —Wheeler Wolf and Fleck Mather & Strutz for financially sponsoring the North Dakota Bar Foundation reception.

Next resolution of appreciation: that graciously sponsored portions of the 2005 Annual Meeting and those that participated as exhibitors are:

Sponsors:

ABA Members Retirement Program

Alerus Financial

ALPS

Basin Electric Power Cooperative

Blue Cross-Blue Shield of North Dakota

Botsford & Qualey Land Company

Big Muddy Bar Association

Eide Bailly

Emineth & Associates

Fleck Mather & Strutz

Kranzler Kingsley

LexisNexis

Maring Williams Law Office

MBNA

Media Productions

North Dakota Bar Foundation with a grant from IOLTA

North Dakota Trial Lawyers Association

Starion Financial  
State Board of Law Examiners in honor of its 100th Anniversary  
United Printing\Spit'n Image  
Vogel Law Firm  
Wheeler Wolf Zuger Kirmis & Smith

And Exhibitors:  
ABA Members Retirement Program  
Alerus Financial  
ALPS  
Anne Carlsen Center for Children  
Benefits Specialists  
Commonwealth Law Book Company  
Guardian & Protective Services  
Kranzler Kingsley  
LexisNexis  
Legal Services of North Dakota  
Thompson West  
Upper Midwest Pension Rights Project  
Vaaler Insurance.

WHEREAS, without their participation and financial support, the 2005 Annual Meeting of the State Bar Association of North Dakota would not have been the success it was.

BE IT FURTHER RESOLVED, that the above be thanked for their gracious support.

The third resolution of appreciation:

WHEREAS, President Sherry Mills-Moore and her husband, Tim Moore, have served the State Bar Association of North Dakota during the past year at a great personal sacrifice to themselves and to their family; and

WHEREAS, the State Bar Association of North Dakota has been greatly improved and enriched due to their efforts,

NOW THEREFORE, BE IT RESOLVED that the State Bar Association of North Dakota commend President Sherry and Tim Moore for their dedicated efforts.

PRESIDENT MILLS-MOORE: Would anyone like to second Mike's motions to accept those resolutions?

PRESIDENT MILLS-MOORE: All in favor, aye. Opposed? Thank you. And thank you very much, Mike. Oh! And I would note for Bill's purposes that that carried resoundingly. Thank you.

Now I call on Jim Hill, who is going to address for you the Second Notice of the Proposed Constitutional Amendment. Jim. Quick.



MR. JAMES HILL: Madam President. I appear as the chair of the Ad Hoc Committee. And now I'm going to read the entire Constitution and Bylaws of the Association.

MR. JACK McDONALD: Move you dispense with the reading.

MR. HILL: Bingo! Madam Sherry, what we have is the second reading of our Bylaws and constitutional amendments from last year.

Believe me, they have passed a very narrow conservative test that I place on these rules, and I think they are all in form to assist us to go forward. Our notice requirements and things of that nature, changing the name of the Board of Law Examiners, none are particularly controversial.

And I would move the adoption of the changes so noted in the Constitution and Bylaws, this being our second public notice of each of the changes. I note that it says we would vote in 2006, but I defer to Judge Erickson. I think we have adequately responded to our Bylaw requirements of two public notices.

MR. LAWRENCE KING: Second.

PRESIDENT MILLS-MOORE: Thank you. There's a second. Any discussion? All in favor? Opposed? I note that it passed unanimously, I believe. Thank you very much.

It is appropriate for us to take a moment to remember our colleagues who died since this time last year. And I'm going to read those names, if we could all remember them.

Jack Duis

Lowell O'Grady

Roger Sullivan

Richard Burns

Randy H. Lee

Blake Sobolik

Mark Scallon

Robert Vogel

Russell Nerison

Albert Hausauer

Randy Deede

Edmund G. Vinje II

Florence A. Vande Bogart

James P. Rausch

Jay A. Fiedler

Theodore F. Kessel

I would like to repeat a few lines contained in a eulogy delivered by the late Matt Murphy in speaking of the passing of a country lawyer:

“Warm summer sun  
Shine friendly here  
Warm western wind  
Blow kindly here  
Green sod above  
Rest light, rest light  
Good night, old friend  
Good night, good night.”

At this time we will conduct the elections for the president-elect and the secretary-treasurer. We are operating under our absentee ballot procedures. We will not be having open nominations from the floor except for those candidates who filed nominating petitions. We will have a short nominating speech for the candidates who did file a petition. And at this time I recognize Jason Vendsel.

MR. JASON VENDSEL: Short?

PRESIDENT MILLS-MOORE: Short.

MR. VENDSEL: I don't do anything short. Madam President: It is my distinct pleasure here today to nominate my friend and colleague, Lawrence King, as president-elect of the State Bar Association of North Dakota.

When Lawrence initially contacted me about this, I was—first, I was humored and a little nervous because over the last 15 years I thought back, I wasn't sure I could come up with any stories or anecdotes that were clean enough for public consumption. But I was able to do it. And what I was able to decide was that Lawrence at every turn throughout my life or throughout the time I've known him, he's been committed to everything that's been put in front of him.

In law school he was committed to his studies and to maintaining his relationships with his friends that he's maintained to this day. He's committed to his practice and to his clients, committed to his wife and his children. He has very high standards that he holds himself to for his personal discipline and the like, and he doesn't look down on some of us others that don't meet those standard. And I very much appreciate that.

He's had four years on the Board of Governors and through that time he's been very committed to this Association. We have some divergent personalities; some of us soft-spoken types, like myself; sometimes we have loud, aggressive types, and that sometimes makes conflict.

But Lawrence is always the voice of reason. He's always the guy that can bring us together and get us back on task.

When I was looking through the list of past presidents today, I noted that Lawrence is really the first from my generation that will serve as president of this Association. And, frankly, I can't think of a better person

to take that first step. And I will proudly nominate Lawrence King as president-elect of the State Bar Association of North Dakota.

PRESIDENT MILLS-MOORE: Thank you. Is there a second?

MR. JAMES HILL: Second.

PRESIDENT MILLS-MOORE: Okay. I would entertain a motion to cast a unanimous ballot.

MR. JAMES HILL: So move.

PRESIDENT MILLS-MOORE: Yes. All in favor? Opposed? Let the record show that passed. Congratulations, Lawrence! Do you have anything you wish to say?

MR. LAWRENCE KING: Real quickly. I'm honored by the opportunity to serve. I think it's going to be an exciting time. I look forward to working with Mike and the Board of Governors over the next several years on behalf of the Association. I also want to say real briefly that basically the bar I'm setting is if I can do a quarter as well as Sherry has done, I'll be happy. I've been impressed by her leadership over the last year. It really has been great.

Also, I'll take one other quick second. With the resolutions of appreciation, I think the other ones as far as the Annual Meeting is the staff. Carrie, Justine, Jeanne and McDonna, all of them did a tremendous job, and I want to make sure that they're recognized, as well.

PRESIDENT MILLS-MOORE: Let's do that. Let's give the staff recognition. Thank you. Thank you very much. The next office is for secretary-treasurer and the chair recognizes Jim Hill.

MR. JAMES HILL: Thank you, Madam President. I stand proudly to place into nomination the name of the David Peterson for the position of secretary treasurer. I note that our Association is truly blessed having two David Petersons—actually, two David L. Petersons. Both are extremely good-looking guys, very community active oriented people, stalwart and professional people to the max; they're both married to exceptionally brilliant women who have guided their careers and directed their careers throughout, and for which they can take complete credit. The only difference we have is Bismarck David and Grafton David are a little less—a little difference in experience with the Bar. David Bismarck is one of our stalwart leaders. David Grafton is kind of coming through the ranks now. And I would suggest to you all he's an experienced, dedicated individual, and I'm very proud to put into nomination David L. Peterson of Grafton for secretary-treasurer.

PRESIDENT MILLS-MOORE: Thank you, Jim. Is there a second? Is there a motion to cast a unanimous ballot?

Thank you. All in favor? Opposed? Let the record show that David Peterson is our now secretary-treasurer. Congratulations!

I was at the presentation this morning and they said that I need to be sincere; we all need to be sincere. It is with great sincerity that I say it is my great pleasure at this time to turn the gavel over to that wonderful Mike Williams. Mike.

PRESIDENT MIKE WILLIAMS: Normally, my style would be to say that it's very late in the day, and I appreciate the opportunity to serve. But there's nothing left to say, so I would adjourn the meeting. Before I do that, though, I would be remiss if I did not also mention—again, we'll get a chance to deal with this issue a little better tonight—but I would be remiss if I didn't mention the awesome job that Sherry has done this year under extremely difficult circumstances. I think she showed her character, her class, and her commitment to us throughout a very difficult year. And I hope you'd all join me in showing her our appreciation.

PAST-PRESIDENT MILLS-MOORE: Thank you.

PRESIDENT WILLIAMS: With that, it gives me great pleasure to declare this meeting adjourned. Thank you very much.

#### CERTIFICATE OF COURT REPORTER

I, Alvin T. Emineth, a Registered Diplomat Reporter,

DO HEREBY CERTIFY that I recorded in shorthand the foregoing proceedings had and made of record at the time and place hereinbefore indicated.

I DO HEREBY FURTHER CERTIFY that the foregoing typewritten pages contain an accurate transcript of my shorthand notes then and there taken.

Dated at Bismarck, North Dakota, this 7th day of September, 2005.

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Alvin T. Emineth

Registered Diplomat Reporter

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